

MINUTES

PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING THURSDAY, OCTOBER 21, 2004 10:00 A.M. CITY HALL 8TH FLOOR – COMMISSION CONFERENCE ROOM

Members Present:

Peter R. Partington, Acting City Engineer
Sharon Miller, Assistant City Attorney substituting for Bob Dunckel
Tony Irvine, City Surveyor
Chris Barton, Planner II
John McDowell, Municipal Operations Supervisor, substituting for Tom Terrell
Greg Thornburgh, PBS & Collections Manager
Maurice Murray, Community Inspections Supervisor, substituting for Lori Milano
Kathy Connor, Parks Supervisor

Staff Present:

Ed Udvardy, Manager of General Services
Victor Volpi, Senior Real Estate Officer
Maureen Barnes, Administrative Assistant I
Rafeela Persaud, Word Processing Secretary
Eileen Furedi, Clerk II

Guests Present:

Nectaria Chakas
Joseph Handley
Ron Mastriana
Francisco Serveur
Linda Strutt
Don Mitchell
Robert Lochrie
John Milledge
Tim Petrillo
John Baranco
Brad Hodger
Danny O'Malley

Peter Partington called the meeting at 10:05 A.M. and stated that this is a Committee of City staff serving as an advisory panel to the City Manager on appropriate uses of City property and rights-of-way.

ITEM ONE: **APPROVAL OF SEPTEMBER 16, 2004 MINUTES**

MOTION BY TONY IRVINE TO APPROVE THE MINUTES. SECONDED BY KATHY CONNOR. MOTION PASSED UNANIMOUSLY.

ITEM TWO: **APPROVAL OF SEPTEMBER 20, 2004 MINUTES**

The minutes were amended by Tony Irvine to correct Page 8, Paragraph 9, stating that Mr. Forman had withdrawn his offer to the compromise (in regards to reducing the number of parking spaces), due to a valid permit being issued.

MOTION BY GREG THORNBURG TO APPROVE THE MINUTES, AS AMENDED. SECONDED BY TONY IRVINE. MOTION PASSED UNANIMOUSLY.

ITEM THREE: **VACATION OF ALLEY/FLAGLER POPIII LLC, 300 N.W. 2ND AVENUE**

Address or General Location: 300 NW 2 Avenue

Victor Volpi introduced item stating that at the July 15, 2004 meeting, the applicant received a positive recommendation to vacate a portion of the alley between N.W. 3rd and 4th Avenues south of N.W. 2nd Street contingent upon the dedication and construction of a turnaround. He said that the applicant would now like a positive recommendation to vacate the entire alley remaining in the block so that a turnaround was not necessary. He stated that the developer of the property would relocate any utilities at no cost to the City. Victor Volpi introduced Robert Lochrie.

Mr. Lochrie stated that the property was located north of Broward Boulevard, south of N.W. 2nd Street, east of N.W. 3rd and 4th Avenues. Mr. Lochrie said that after some additional research, the alley originally ran through the entire block and the State of Florida, owner of the property to the south along Broward Boulevard, had previously vacated the portion of the alley that ran through their property. Mr. Lochrie stated that they are now requesting a vacation of the remaining portion of the alley. Mr. Lochrie said that FPL has a line that runs through the alley and they would relocate the line and grant an easement to FPL. Peter Partington asked if there were any utilities in the alley. Greg Thornburg said no.

MOTION BY TONY IRIVINE TO RECOMMEND APPROVAL OF THE VACATION OF THE PORTION OF THE ALLEY LYING BETWEEN LOTS 19 AND 6, BLOCK 10, WITH NO REQUIREMENT FOR AN EASEMENT AND IF NEEDED BY A FRANCHISE UTILITY, SHOULD BE WORKED OUT IN THE PROCESS, AND TO WAIVE ANY REQUEST PREVIOUSLY MADE FOR A TURNAROUND. SECONDED BY KATHY CONNOR.

Sharon Miller arrived at 10:15 A.M.

Chris Barton questioned the vacation of the entire alley without retaining an FPL easement. Tony Irvine said that any easement retention would be worked out with the franchise utilities.

MOTION PASSED UNANIMOUSLY.

ITEM FOUR: **VACATION OF A PORTION OF UTILITY EASEMENT, 1911 S.E. 23 AVENUE**

Address or General Location: 1911 SE 23 Avenue

Victor Volpi introduced item stating that Mr. & Mrs. Murray are constructing a garage and they have obtained a building permit. He stated that an existing easement was overlooked during the plan review and the foundation of the garage was poured 12 inches into a platted utility easement. He said that the applicant would like a positive recommendation to vacate that portion of the easement so they may continue. Victor Volpi introduced Francisco Server.

Mr. Server said that the building permit was obtained and the foundation was poured and during the spot survey which was requested by the City, an easement was discovered and now the foundation was 1-foot within the easement.

Peter Partington asked if the recommendation was to vacate the 12-inch easement. Mr. Server said yes.

Tony Irvine asked about a license or an encroachment agreement due to having an odd shaped easement in the future if the building was ever demolished and would place a cloud on the title. Sharon Miller said that that would be an alternative. Tony Irvine said that in this case, he would be in support of a vacation.

Peter Partington asked about the width of the easement. Tony Irvine said it was 6 feet. Peter Partington asked about any utilities in the easement. Mr. Server said that he had received clearance from all utility companies.

Chris Barton asked about the air conditioner located within the easement. Tony Irvine said that the air conditioner should be relocated.

MOTION BY TONY IRVINE TO RECOMMEND VACATION OF THE PORTION OF THE UTILITY EASEMENT, AS REQUESTED – 1-FOOT WIDTH BY 23-FEET, WITH A CONDITION THAT THE AIR CONDITIONER BE REMOVED FROM ITS EXISTING LOCATION WHICH IS ENCROACHING ON THE EASEMENT, AND BE RELOCATED SOMEWHERE ON SITE THAT IS NOT ENCROACHING ON A PUBLIC EASEMENT. SECONDED BY KATHY CONNOR.

Peter Partington asked about the enforcement of the condition of the motion. Sharon Miller said that a "Certificate of Engineer" has to be approved by Tim Welch before a vacation takes effect. Tony Irvine said that the minutes would go with the application and CO of the vacation. Chris Barton said it would also be picked up by DRC.

MOTION PASSED UNANIMOUSLY.

ITEM FIVE: **VACATIONS/RELOCATION OF FIRE STATION**

Address or General Location: southeast corner of NE 32 Avenue and NE 32 Street to southwest corner of NE 32 Street and NE 33 Avenue

Victor Volpi stated that this item, at the applicant's request, would be deferred.

ITEM SEVEN: **VACATION OF N.E. 11TH AVENUE FROM SUNRISE BOULEVARD TO N.E. 11TH STREET**

Address or General Location: NE 11 Avenue, from Sunrise Boulevard to NE 11 Street

Victor Volpi stated that this item, at the applicant's request, would be deferred.

ITEM EIGHT: **VACATION OF ALLEY, EVERGLADE LAND SALE CO.**

Address or General Location: alley between SE 15 Street and 16 Street, east of Federal Highway

Victor Volpi introduced item stating that in order to create a more uniform development, Harbordale Development LLC would like a positive recommendation to vacate the alley in Block 11 of Everglade Land Sale Co, Plat Book 2, Page 15, between S.E. 15th and 16th Streets, east of Federal Highway. Victor Volpi introduced Ron Mastriana, Agent for Owner.

Mr. Mastriana stated that this would be a townhouse development and portions of the alley were currently being used for parking. Mr. Mastriana said that the cable company had placed a box in the middle of the access way. Mr. Mastriana said that he was asking for the vacation of the alleyway and all utilities would be placed underground. Mr. Mastriana said that the right-of-way of the alley has been blocked off and not in use since 1935.

Discussion followed as to the applicant's ownership of lots, approval from all adjacent property owners, vacation of the entire alley and any access easements, a turnaround, a traffic plan regarding the two dead end alleys, curb cut to the alleys, retaining a utility easement, placing all utilities underground, and contacting the cable company regarding relocation of the box.

MOTION BY TONY IRVINE TO DEFER. SECONDED BY SHARON MILLER.

Tony Irvine stated more information was needed regarding a traffic plan about the two dead alleys, and utility locations. Sharon Miller stated she had concerns regarding the illegal trespassing of private property for parking purposes and the cable box.

Chris Barton said that DRC and Planning and Zoning Committees look at the criteria for a vacation before submitting to the Commission for approval.

Tony Irvine questioned about owners of Lots 10 and 11 using the alley for parking and if vacated, owners of Lots 30 and 31 acquiring a firmer interest in the alley. Mr. Mastriana said that the owner did not park in the alley.

MOTION PASSED UNANIMOUSLY.

ITEM NINE: **VACATION OF ALLEY/RETAIN EASEMENT**

Address or General Location: alley between Sunrise Boulevard and NW 9 Street, and NW 7 Avenue and NW 7 Terrace

Victor Volpi introduced item stating that this item was deferred from the last Property and Right-of-Way meeting to gather additional information. He stated that the applicant (Specialty Automotive Treatments) would like a positive recommendation to vacate the alley between N.W. 7th Avenue, N.W. 7th Terrace, Sunrise Boulevard and N.W. 9th Street, and they are now prepared to answer all of your questions. Victor Volpi introduced Linda Strutt.

Ms. Strutt stated that this was a reservation of the old Progresso Plat that ran from Sunrise Boulevard to N.W. 9th Street, a portion of which ran between the Bally Fitness center and the applicant's property, Specialty Automotive Treatments, which is paved and being used, has FPL poles, and the City having a 2-inch water line. Ms. Strutt said that the primary concerns were the Bally Fitness Building, pedestrians and the fire door. Ms. Strutt said that the site plan has been changed and are proposing to retain the paved portion of the alley, and have spoken to the abutting property owners for continued usage of the paved portion of the alley by a cross access easement. Ms. Strutt stated that she had contacted FPL who stated that they would have no objection provided an easement was retained. Ms. Strutt stated that all additional information was placed on the survey, as requested along with pictures. Ms. Strutt said that the basic use of the alley would be the same as today, with the exception that the reservation would be lifted and replaced with an easement.

Greg Thornburg said that there was a private storm sewer in the alley. Mr. John Barranco, Architect for the applicant, said that they would maintain the sewer since it was on their property. Greg Thornburg said that he was a little nervous about giving up right-of-way for an easement. Tony Irvine said that he would be more in favor of their relocating the line.

Discussion followed regarding vehicular access through the alley, the creation of a parking lot, private cross access agreement, extending the utility easement, rededication of additional alley, the alley being paved and gated, and discussions held with the Fire Department.

MOTION BY KATHY CONNOR TO RECOMMEND APPROVAL OF THE VACATION OF THE ENTIRE ALLEY CONTINGENT UPON RELOCATION OF THE EXISTING 2-INCH WATER MAIN LINE IF POSSIBLE, THE RETAINMENT OF A UTILITY EASEMENT, AND THE CLOSING TO THE PUBLIC OF THE ALLEYWAY BY A SECURED CONTROL MECHANISM. SECONDED BY TONY IRVINE.

MOTION PASSED UNANIMOUSLY.

ITEM TEN: VACATION OF ALLEY, PROGRESSO PLAT

Address or General Location: alley between NW 7 Street and Sistrunk Boulevard, and NW 5 Avenue and 6 Avenue

Victor Volpi introduced item stating that Philip Morgaman would like a positive recommendation to vacate the alley between N.E. 7th Street and Sistrunk Boulevard, and N.W. 5th and 6th Avenues for assemblage purposes. Victor Volpi introduced John Milledge and Linda Strutt.

Mr. Milledge said that that alley is not used and is blocked off. He stated that there was some FPL power poles but no other utility or lines. Mr. Milledge said that there were some issues with the adjacent property owners and if the alley was vacated, that they would deal with the successors at that point and time.

Discussion followed as to the zoning, contacting the CRA regarding the alley, the need to retain a utility easement, contacting FPL regarding relocation of poles.

Chris Barton stated that if there were no purposes for the unimproved alley to be retained and no one along the block who owns property had any objections, this would be a reasonable request.

MOTION BY SHARON MILLER TO RECOMMEND APPROVAL OF THE VACATION OF ALLEY, AS REQUESTED. SECONDED BY CHRIS BARTON.

Discussion followed regarding the CRA's plan in the area and whether there was a public purpose for the use of the alley.

Peter Partington said that this Committee was to advise the City Manager on the disposition of City land and wanted to know why the Committee could not make more generalized recommendations regarding unimproved alleys. Sharon Miller said legally the City did not own right-of-ways but were trustees for the public.

MOTION AMENDED BY TONY IRVINE TO ADD SUBJECT TO CRA STAFF REVIEW. SECONDED BY CHRIS BARTON.

MOTION PASSED UNANIMOUSLY.

ITEM SIX: EXTENSION OF LEASE TERM, RIVER HOUSE RESTAURANT

Address or General Location: 301 SW 3 Avenue

Victor Volpi introduced item stating that the restaurant now known as "River House" is there by the benefit of a lease that began September 1, 1982 and if all options are taken, will terminate September 1, 2012, a 30-year lease. He stated that the last amendment to this lease was June 2003 wherein the City Commission agreed to accept less rent, pay all taxes, pay one-half of the capital improvement projects, and allow the restaurant more use of outdoor space (seating and signage). He said that now "The Restaurant People" would like a positive recommendation to extend this lease to its maximum term regulated by the Charter, or 50 years, which would be an expiration date of September 1, 2032. He said that "the Restaurant People" have agreed to replace the entire roof of the restaurant at their cost which is badly needed. He said that based on the amended lease, the roof would cost the City one-half of the total cost. He stated that the estimated price of a new roof is \$160,000 to \$240,000. Victor Volpi introduced Tim Petrillo.

Mr. Petrillo said that a new roof was needed and the City might not be in the position to fund the new roof and they were willing to redo the roof, but there was only 8 years left on the lease.

Victor Volpi said that City Commission had agreed to lower the rent, keeping the CPI increases, pay for all taxes, pay for half of the capital improvement projects as approved by the City Manager and as an amendment to the lease and if recommended by the PROW Committee, to extend for another 20 years, to 2032. Mr. Petrillo said that the City participates in the gross revenue from the restaurant.

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Peter Partington said that in order for the applicant to put in the investment in the roof, he wanted the right by year 2012 to extend the lease to 2032, in increments of 5 years. Victor Volpi said that if approved by the City Manager, by Charter in 2032, the property would have to go out to bid. Peter Partington said that under the current amended lease, the City would be responsible for 50% of the total cost of the new roof.

Mr. Milledge stated the Committee could have confidence with the people who are running the restaurant as they knew what they were doing. He said that there would be revenue sharing and a win-win situation for both parties.

MOTION BY SHARON MILLER TO RECOMMEND APPROVAL, AS REQUESTED.

SECONDED BY CHRIS BARTON.

Tony Irvine said that this was a historic building and would never be demolished. Peter Partington asked Victor Volpi if this would be a good recommendation. Victor Volpi said yes as they had been a good tenant.

MOTION PASSED UNANIMOUSLY.

Meeting adjourned at 11:55 A.M.